

Senate Bill No. 977

Passed the Senate August 31, 2012

Secretary of the Senate

Passed the Assembly August 31, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 111825 of the Health and Safety Code, relating to the Sherman Food, Drug, and Cosmetic Law.

LEGISLATIVE COUNSEL'S DIGEST

SB 977, Yee. Sherman Food, Drug, and Cosmetic Law: nail polish.

Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the federal Food, Drug, and Cosmetic Act. The Sherman Law prohibits the misbranding of a cosmetic. A violation of these provisions is a crime subject to, with specified exceptions, imprisonment for not more than one year in the county jail or a fine of not more than \$1,000, or both imprisonment and fine.

This bill would, with certain exceptions, increase the maximum criminal fine for specified violations by a nail polish manufacturer of the misbranding prohibitions of the Sherman Law to \$2,000.

The people of the State of California do enact as follows:

SECTION 1. Section 111825 of the Health and Safety Code is amended to read:

111825. (a) Any person who violates any provision of this part or any regulation adopted pursuant to this part shall, if convicted, be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and fine.

(b) Notwithstanding subdivision (a), any person who violates Section 111865 by removing, selling, or disposing of an embargoed food, drug, device, or cosmetic without the permission of an authorized agent of the department or court shall, if convicted, be subject to imprisonment for not more than one year in the county jail or a fine of not more than ten thousand dollars (\$10,000), or both the fine and imprisonment.

(c) (1) Notwithstanding subdivision (a) and except as provided in paragraph (2), a manufacturer, as defined in Section 111791.5, of nail polish that violates Article 3 (commencing with Section 111730) of Chapter 7 or any regulation adopted pursuant to this article shall, if convicted, be subject to imprisonment for not more than one year in the county jail or a fine of not more than two thousand dollars (\$2,000), or both the imprisonment and fine.

(2) Paragraph (1) shall not apply to a nail salon or to a distributor, retailer, or wholesaler of nail polish.

(d) If the violation is committed after a previous conviction under this section that has become final, or if the violation is committed with intent to defraud or mislead, or if the person committed a violation of Section 110625 or 111300 that was intentional or that was intended to cause injury, the person shall be subject to imprisonment for not more than one year in the county jail, imprisonment in state prison, or a fine of not more than ten thousand dollars (\$10,000), or both the imprisonment and fine.

Approved _____, 2012

Governor